

Plaintiff-Intervenor United States of America (the “United States”) and Private Plaintiffs (collectively, “Plaintiff Parties”) jointly object to: (1) the submission by Defendant Cleveland School District (the “District”) of a supplement [Docs. 182 and 183-1] to its proposed desegregation plans filed with this Court on January 23, 2015, and (2) the District’s Motion for Continuance [Doc. 183] of the evidentiary hearing set to commence on May 18, 2015. In support of these objections, the United States respectfully submits the following:

1. The District's submission of a third proposed plan ("Plan C") for the Court's consideration at the hearing is untimely. Under the Court's Order Modifying Scheduling Order, dated December 17, 2014, the deadline for the parties to submit proposed plans was January 23, 2015. On that date, the parties submitted their respective plans. The District did not seek, nor

has the Court granted, leave for any party to amend or supplement their proposed plans. Nor did the District consult with the Plaintiff Parties or obtain their consent before filing its supplemental proposal and the Motion for Continuance.

2. The District's submission of Plan C on the eve of hearing is prejudicial. The parties engaged in extensive discovery, including a number of depositions, by the Court-ordered discovery deadline of April 21, 2015. The United States retained expert witnesses to review and provide opinions on the three proposed plans. The United States circulated its experts' reports to counsel for all parties by the Court-ordered deadline of March 20, 2015. The United States also deposed the District's witnesses on the plans submitted by the parties to the Court. Although the United States will consider the District's proposal or other proposals presented as settlement offers, the Plaintiff Parties have no opportunity to properly assess or conduct discovery on Plan C, which was first shared informally by the District's counsel with counsel for the United States in the last forty-eight hours. The District did not share Plan C with Private Plaintiffs before filing it with the Court.

3. Continuance of the hearing set for May 18, 2015 is unwarranted. In its March 3, 2015 Supplement to Order Modifying Scheduling Order, the Court stated that "the deadlines set in this order, in the February 25 Order, and in the June 18, 2014, Scheduling Order, will not be changed absent a showing of extraordinary circumstances justifying such relief." [Doc. 125 at 2.] The District has made no showing of "extraordinary circumstances" justifying a postponement of the scheduled hearing.

4. The United States has scheduled travel for its attorneys, expert witnesses, and litigation support staff to Greenville, MS, from across the country over the next several days. Additionally, the Plaintiff Parties anticipate calling other fact witnesses from Cleveland,

including parents and community members, who have requested leave from work to participate in the hearing next week. One or more of the Plaintiff Parties' witnesses may be unavailable to testify during the summer months.

5. The parties have engaged in negotiations throughout the week, and the United States is willing to continue confidential, good-faith settlement negotiations prior to next week's hearing. However, as the parties have discussed various options but reached no agreement on any plan, the District's request for a continuance at this juncture is premature, at best. The Plaintiff Parties therefore oppose the District's Motion for Continuance.

Based on the foregoing, the United States and Private Plaintiffs respectfully request that the Court: (1) deny the District leave to submit Plan C for consideration by the Court at the hearing next week, and (2) deny the District's Motion for Continuance.

Respectfully submitted, this 14th day of May, 2015,

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CERTIFICATE OF SERVICE

I hereby certify that on May 14, 2015, I electronically filed a copy of the foregoing Joint Response in Opposition to Defendant's Submission of Supplemental Proposed Plan and Defendant's Motion for Continuance using the Court's CM/ECF system. Notice of this filing was sent by operation of the CM/ECF system to all counsel of record.

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